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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,492	02/27/2006	Nobuo Naito	127199	3472
25944 7590 12/16/2008 OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850				
EXAMINER				
CHANG, VICTOR S				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
12/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/569,492

Applicant(s)

NAITO ET AL.

Examiner

VICTOR S. CHANG

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
4a) Of the above claim(s) 1-3 and 6-12 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 4 and 5 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CD/CD)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Introduction

1. Applicants' amendments and remarks filed on 10/27/2008 have been entered. Claims 4 and 5 are active.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. In response to the amendments, the grounds of rejection have been updated as set forth below. Rejections not maintained are withdrawn.

Rejections Based on Prior Art

4. Claims 4 and 5 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yoshikawa et al. [US 6090473].

Yoshikawa's invention relates to an electromagnetic wave shielding and light transmitting plate suitable for a front filter for a plasma display panel [col. 1, ll. 8-10]. Fig. 6a illustrates an embodiment of the filter comprising in sequence an antireflective layer 65, a transparent substrate 62A, and an adhesive layer 64 [col. 17, ll. 15-22]. The adhesive layer may further include small amounts of ultraviolet absorbing agent, infrared absorbing agent, and coloring agent, etc. [col. 11, ll. 19-22].

For claims 4 and 5, Yoshikawa's infrared absorbing agent and coloring agent containing adhesive layer is interpreted as reading on the unwanted light shielding layer, including both the near infrared layer and the specific-wavelength-light absorbing layer. Regarding the functional

languages of the infrared absorbing agent and the coloring agent, while Yoshikawa is silent about their functions, since Yoshikawa teaches a display filter for a plasma display, selecting agents having workable functional properties, i.e., absorbing in the near infrared wavelength range and absorbing specific-wavelength-light to adjust color tone of the same light source of a plasma display, are deemed to be either anticipated, or obviously provided by practicing the invention of prior art, dictated by the same performance requirements of plasma display.

Double Patenting

5. Claims 4 and 5 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 10/562424. Although the conflicting claims are not identical, they are not patentably distinct from each other because they obviously read on each other as claimed.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. Claims 4 and 5 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of copending Application No. 10/569512. Although the conflicting claims are not identical, they are not patentably distinct from each other because they obviously read on each other as claimed.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

7. Regarding applicants' traverse directed to the election of species requirement, absent any new persuasive argument, the Finality of the election requirement set forth in the Office action mailed 4/28/2008 has been maintained.

Applicants argue at Remarks page 3 that

"Yoshikawa thus teaches that the light absorbing materials are contained in the same layer, not in two separate, laminated layers as claimed. Yoshikawa thus does not anticipate the claimed invention."

However, since Yoshikawa's light absorbing layer reads on both specific-wavelength-light absorbing layer and the near infrared rays absorbing layer, Yoshikawa anticipates the instant invention as claimed.

Applicants argue at pages 3-4 that

"the claimed structure provides significant and unexpected results that are also not taught or suggested by Yoshikawa... This separate specific-wavelength-light absorbing layer is not part of, but rather is laminated to, the near infrared rays absorbing layer. As a result, these two separated but laminated layers can be provided independently in the process of forming an anti-reflection film for a plasma display."

However, nowhere does the specification of the application support unexpected results, nor has any evidence been provided. Applicants' argument in vacuum is unpersuasive.

Applicants argue at page 4 that

"The claimed invention thus allows and provides for easy and secure adjustment of the transmittance and color tone correction properties. This provides the benefit, for example, of allowing multiple different specific-wavelength-light absorbing layers to be prepared with a range of properties, and then the desired or suitable specific layer can be used for a specific application."

However, applicants' arguments directed to embodiments not claimed are misplaced.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR S. CHANG whose telephone number is (571)272-1474. The examiner can normally be reached on 7:00 am - 5:00 pm, Tuesday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor S Chang/
Primary Examiner, Art Unit 1794